

REMARKS

Claims 21-22 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, the Examiner asserts that “it is unclear how the liquid crystal layer comprises a cell gap.” Applicants therefore traverse this rejection because neither of claims 21 nor 22 recites that “the liquid crystal layer comprises a cell gap.” The actual language of claim 21 recites, among other things, a structure having its entire gap thickness equal to a cell gap of said liquid crystal layer.” This structure is easily understood by one of ordinary skill in the art when the language is read in light of the Specification. The Section 112 rejection is therefore deficient for failing to apply the correct standard for definiteness. The correct standard is whether one of ordinary skill in the art would understand the scope of the invention when the claims are read in light of the Specification. The meaning of the recited “cell gap” is clear and distinct in light of at least Fig. 14b, and its accompanying text.

The Examiner thus appears to be rejecting claims 21 and 22 solely on the basis of the Examiner’s personal opinion that “better language” could have been used for the claims. Whether or not such is true, it is not a basis upon which a Section 112, second paragraph, rejection may be asserted and maintained. The Examiner is always entitled, and even encouraged, to suggest better claim language. However, even if “more suitable language or modes or expression are available,” Section 2173.02 of the MPEP expressly directs the Examiner to still “allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness.” (Emphasis in the original). In other

words, the claims are not required to have the best possible language available. The language must only be reasonably clear enough for one of ordinary skill in the art to understand them.

The Examiner only appears to be having difficulty interpreting the preposition “of” in the claim phrase “a cell gap of said liquid crystal layer.” The Examiner appears to be interpreting “of” to mean only “containing or consisting of.” Any standard dictionary though, clearly indicates that the preposition is subject to a variety of broader interpretations. The word is broad enough to interpret the claim language as meaning that the cell gap could merely be “associated with” the liquid crystal layer which would be a typical interpretation by one of ordinary skill in the art. Nevertheless, in order to expedite prosecution only, Applicants offer an alternative preposition in claim 21 herein, namely, the word “across.” The Examiner should have no difficulty interpreting this alternative.

Claims 1-5 and 21-22 again stand rejected under 35 U.S.C. 102(e) as being anticipated by Kishimoto et al. (U.S. 6,721,024). Applicants therefore traverse this rejection again for at least the reasons of record, and as follows. The Examiner has not considered all of the language of the claims. The interpretation expressed in the rejection renders meaningless the word “entirely” and “entire” in independent claims 1 and 21 respectively.

In the telephone interview conducted by the Examiner on September 26, 2006, the Examiner informed Applicants that he was interpreting the then existing claim terms of “partition” and “enclose” as distinct from one another, yet also as still reading upon the Kishimoto reference because an enclosure could be “either partial or complete.” Although Applicants did not agree with the Examiner that Kishimoto even showed a *partial* enclosure

across the liquid crystal layer between its substrates, the Examiner admitted in the interview that Kishimoto clearly did not show a complete enclosure for any domain between the substrates across the liquid crystal layer. According to the agreement reached in the Interview on this issue, Kishimoto cannot read upon the language of the present claims.

With respect to independent claim 1 specifically, none of Figs. 1-6 of Kishimoto show a domain that is entirely enclosed between the substrates. The Examiner's particular reliance on Fig. 2 of Kishimoto is irrelevant to claim 1 of the present invention because Fig. 2 does not even show two substrates, which is a requirement of this cited limitation of the claim. Fig. 2 simply does not show any view between the substrates. Figs. 1 and 4-6 of Kishimoto, however, do show the entire view between the substrates, and all of these drawings clearly show that Kishimoto does not entirely enclose any domain between the substrates. All of the space between the columns 20 is clearly open, and therefore cannot be entirely enclosed, by definition.

Because these features of claim 1 are clear to one of ordinary skill in the art when the claim is read in light of the present Specification, no further amendments to claim 1 are necessary to have the claim allowed. Nevertheless, in the interests of further expediting prosecution only, independent claim 1 has been further amended herein to specifically exclude any reliance on views that are irrelevant to these particular features of the present invention. Specifically, claim 1 now redundantly recites that the view seen "between" the substrates is also the view that is seen looking parallel to a plane of the substrates. One skilled in the art would have already easily understood that the area between the substrates

could only be seen looking generally parallel to the plane of the substrates. Nevertheless, this redundant language limits the Examiner's consideration to only the view shown in Figs. 1 and 4-6 of Kishimoto, all of which clearly contradict the Examiner's interpretation of the reference. Accordingly, for at least these reasons, the rejection of claims 1-6 based on Kishimoto should be withdrawn.

With respect to claims 21 and 22 of the present invention, the rejection is traversed for reasons similar to those discussed above with respect to independent claim 1. Nowhere does anyone of Kishimoto's drawings support the Examiner's assertion that the entire gap thickness of the structural combination of elements 16 and 20 is equal to the cell gap of or across the liquid crystal layer. Kishimoto even fails to support in any way the Examiner's incorrect interpretation that the entire gap thickness of the combination structure 16/20 is equal to a "thickness of the liquid crystal layer."

Again, as discussed above, the Examiner appears to have entirely ignored "entire" in this particular claim limitation. Fig. 1 of Kishimoto, for example, clearly illustrates that the only portion of the combined structure 16/20 having a gap thickness equal to the cell gap or the thickness of the liquid crystal layer is the small square-shaped point where the columns 20 are remotely and sporadically located along discrete portions of the walls 16. Fig. 1 clearly shows that none of the space between the columns 20 is in any way enclosed across the cell gap, and therefore the entire gap thickness of the combined structure is not equal to any of the cell gap, the thickness of the liquid crystal layer, or any other equivalent terminology that would be recognized by one of ordinary skill in the art.

As repeatedly pointed out to the Examiner, Kishimoto only shows discreet points where the gap thickness, namely, the thickness of the structure that spans the gap between the substrates across the liquid crystal layer, is equal to the cell gap itself. The present invention, on the other hand, recites that its entire thickness, as clearly supported by at least Figs. 14A-B of the present Application, is equal to the cell gap, or thickness of the liquid crystal layer. Accordingly, the rejection of claims 21 and 22 should also be withdrawn.

New independent claim 23 has been added to recite yet another combination of features of the present invention. Claim 23 features that a part of the liquid crystals are entirely enclosed by the two substrates and the structure, the structure having a thickness equal to the liquid crystal layer. Kishimoto fails to read upon this embodiment as well. Entry, consideration on the merits, and allowance of new claim 23 is also respectfully requested.

For all of the foregoing reasons, Applicants submit that this Application, including claims 1-6 and 21-23, is in condition for allowance, which is respectfully requested. The Examiner is invited to contact the undersigned attorney if an interview would expedite prosecution.

Respectfully submitted,

Customer No. 24978

May 22, 2007

300 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
Telephone: (312) 360-0080
Facsimile: (312) 360-9315
P:\DOCS\4328\70169\BK2263.DOC

GREER, BURNS & CRAIN, LTD.

By



Josh C. Snider
Registration No. 47,954